

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
Charles K. Verhoeven (Cal. Bar No. 170151)
2 charlesverhoeven@quinnemanuel.com
David A. Perlson (Bar No. 209502)
3 davidperlson@quinnemanuel.com
50 California Street, 22nd Floor
4 San Francisco, California 94111
Telephone: (415) 875-6600
5 Facsimile: (415) 875-6700

6 Kevin P.B. Johnson (Cal. Bar No. 177129)
kevinjohnson@quinnemanuel.com
7 Victoria F. Maroulis (Cal. Bar No. 202603)
victoriamaroulis@quinnemanuel.com
8 555 Twin Dolphin Drive 5th Floor
Redwood Shores, California 94065
9 Telephone: (650) 801-5000
Facsimile: (650) 801-5100

10 Attorneys for Samsung Electronics Co., Ltd.,
11 Samsung Electronics America, Inc., and
12 Samsung Research America, Inc.

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

15 HUAWEI TECHNOLOGIES CO., LTD., et al.,

16 Plaintiffs,

17 v.

18 SAMSUNG ELECTRONICS CO., LTD., et al.,

19 Defendants.

20 SAMSUNG ELECTRONICS CO., LTD. &
21 SAMSUNG ELECTRONICS AMERICA, INC.,

22 Counterclaim-Plaintiffs,

23 v.

24 HUAWEI TECHNOLOGIES CO., LTD.,
HUAWEI DEVICE USA, INC., HUAWEI
25 TECHNOLOGIES USA, INC. & HISILICON
26 TECHNOLOGIES CO., LTD.,

27 Counterclaim-Defendants.
28

CASE NO. 16-cv-02787-WHO

**DECLARATION OF MARK GRAY
IN SUPPORT OF SAMSUNG'S
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL PORTIONS OF
SAMSUNG'S REPLY IN SUPPORT
OF ITS MOTION FOR JUDGMENT
ON THE PLEADINGS REGARDING
HUAWEI'S CAUSE OF ACTION FOR
DECLARATORY JUDGMENT OF
FRAND TERMS AND CONDITIONS
FOR A CROSS-LICENSE**

1 I, Mark Gray, declare as follows:

2 1. I am a member of the State Bar of California and an attorney at the law firm of Quinn
3 Emanuel Urquhart & Sullivan, LLP, counsel for Defendants and Counterclaim-Plaintiffs Samsung
4 Electronics Co., Ltd. and Samsung Electronics America, Inc., and Defendant Samsung Research
5 America, Inc. (collectively, "Samsung"). Except as otherwise indicated, I have personal knowledge of
6 the facts set forth in this declaration, and, if called upon as a witness, I could and would testify to such
7 facts under oath.

8 2. Pursuant to Civil L.R. 7-11 and 79-5, I make this declaration in support of Samsung's
9 Administrative Motion to File Under Seal Portions of Samsung's Reply In Support Of Its Motion for
10 Judgment on the Pleadings Regarding Huawei's Cause of Action for Declaratory Judgment of
11 FRAND Terms and Conditions for a Cross-License ("Reply").

12 3. I have reviewed the portions of Samsung's Reply In Support Of Its Motion for
13 Judgment on the Pleadings that contain or suggest confidential information. I have specifically
14 reviewed the following portions of Samsung's Reply which contains information which Samsung
15 claims as confidential and which Huawei may claim as confidential:

Document	Portions to be Filed Under Seal
Samsung's Reply In Support Of Its Motion for Judgment on the Pleadings Regarding Huawei's Cause of Action for Declaratory Judgment of FRAND Terms and Conditions for a Cross-License	Green highlighted portions on lines: 1:8 2:12 5:9, 11-13, 25

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21 4. The highlighted portions of Samsung's Reply reflect negotiations correspondence and
22 licensing offers between Huawei and Samsung. As Samsung explained in the sworn declaration of
23 Hojin Chang, Dkt. 41-1, and the Declaration of Cole Malmberg, Dkt. 234-1, Samsung and Huawei
24 signed a non-disclosure agreement regarding their patent licensing negotiations, and such negotiations
25 information is treated as confidential. Samsung considers negotiation information highly confidential
26 and does not disclose it to the public. Disclosure of negotiations positions to the public would harm
27 Samsung's competitive standing by giving competitors insight into Samsung's past licensing positions
28 and practices. Samsung does not have access to similar information about its competitors, which

1 could result in an information asymmetry in future licensing negotiations, placing Samsung at a
2 disadvantage.

3 5. The Court previously ordered the parties' negotiations positions and documents
4 reflecting those negotiations sealed at Dkt. 103 at 18-19 (finding "compelling justification" for
5 sealing) and Dkt. 270 at 3. Sealing is similarly warranted here.

6 6. Huawei may also claim confidentiality over materials that reveal Huawei's negotiation
7 offers and positions. Samsung does not object to Huawei seeking to seal these materials, and
8 Samsung expects that Huawei will file any supporting declarations within the timeline allowed under
9 the Local Rules.

10 7. I have also reviewed the portions of Samsung's Reply In Support Of Its Motion for
11 Judgment on the Pleadings that contain or suggest information Huawei may maintain a claim of
12 confidentiality over. This information is reflected in the chart below:

Document	Portions to be Filed Under Seal
Samsung's Reply In Support Of Its Motion for Judgment on the Pleadings Regarding Huawei's Cause of Action for Declaratory Judgment of FRAND Terms and Conditions for a Cross-License	Yellow highlighted portions on lines: 6:3-5

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19 8. The above portions of Samsung's Reply are references to testimony from depositions
20 of Huawei witnesses that Huawei marked Highly Confidential – Attorneys' Eyes Only under the
21 protective order. To the extent Huawei's deposition testimony concerns positions taken by both
22 parties during negotiations, Samsung requests the information be sealed for the reasons noted above.
23 To the extent Huawei maintains a claim of confidentiality over the above materials as revealing
24 Huawei confidential business information, Samsung expects Huawei will file declarations supporting
25 sealing within the time permitted under the Local Rules.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct to the best of my knowledge. Executed June 29, 2018, in Redwood City,
3 California.

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5 /s/ Mark Gray

6 Mark Gray
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ATTESTATION

I, Victoria F. Maroulis, am the ECF user whose ID and password are being used to file the above Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Mark Gray has concurred in the aforementioned filing.

/s/ Victoria F. Maroulis

Victoria F. Maroulis